

EPA-Approved

**WITHDRAWAL OF THE
CIENEGUILLA CREEK
(EAGLE NEST LAKE TO HEADWATERS)
DISSOLVED ALUMINUM TMDL**



**NEW MEXICO ENVIRONMENT DEPARTMENT
SURFACE WATER QUALITY BUREAU**

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Summary

Due to the change from a dissolved aluminum to a hardness-based total recoverable aluminum water quality criterion (WQC) and the availability of data which allows for comparison to the hardness-based total recoverable aluminum WQC for the Cieneguilla Creek (Eagle Nest Lake to headwaters) assessment unit (AU), the New Mexico Environment Department Surface Water Quality Bureau (SWQB) requests to withdraw the 2004 Cieneguilla Creek (Eagle Nest Lake to headwaters) dissolved aluminum Total Maximum Daily Load (TMDL) from the New Mexico Statewide Water Quality Management Plan and Continuing Planning Process (WQMP/CPP).

I. Background

The AU was first listed on the 2000-2002 List of Impaired Waters as impaired for aquatic life use due to dissolved aluminum. A dissolved aluminum TMDL for Cieneguilla Creek (Eagle Nest Lake to headwaters)¹ was developed in 2004 and approved by the New Mexico Water Quality Control Commission (WQCC, or Commission) on January 13, 2004 and the U.S. Environmental Protection Agency (USEPA) on May 19, 2004. The dissolved aluminum impairment was removed from the List of Impaired Waters in 2008.

During the 2009-2010 triennial review of standards for interstate and intrastate surface waters, SWQB proposed to replace the dissolved aluminum WQC for aquatic life with hardness-based total recoverable aluminum WQC. The Commission approved this hardness-based total recoverable aluminum WQC on October 14, 2010, and USEPA approved these WQC on June 18, 2012, for surface waters with pH > 6.5.

II. Requirements and Guidance for TMDL Withdrawal

Both USEPA guidance and the New Mexico WQMP/CPP provide for the withdrawal of TMDLs. The March 22, 2012 USEPA guidance titled “Consideration for Revising and Withdrawing TMDLs” states the following:

In some circumstances, however, a State may want to withdraw a TMDL to reduce any confusion for permit writers or stakeholders, but it is at the State’s discretion. At least three scenarios could prompt a desire for TMDL withdrawal:

...

3. EPA approves a State’s revised water quality criteria or water quality standard leading to a determination that the water body is no longer impaired. Under the circumstances implementation of the WLA in the TMDL based on the old criteria may lead to permit effluent limits more stringent than necessary under the new criteria. When withdrawing such TMDLs, States should notify EPA and provide public notice of the withdrawal. One option would be for the withdrawal to occur at the same time the State establishes its

¹ See <https://www.env.nm.gov/swqb/TMDL/List/>

next 303(d) list. However, if the water body remains impaired under the new water quality standard, the TMDL should remain in place. The State may withdraw the TMDL if it chooses to develop a TMDL revision and EPA approves the revised TMDL; however, it is not necessary to withdraw the TMDL.

Section IV-C of the 2011 New Mexico WQMP/CPP states the following:

“TMDLs may be revised as necessary...based on changes to water quality standards or other factors influencing the TMDL calculation or distribution between the WLA and LA in the TMDL. TMDLs may be removed from the WQMP with WQCC approval if the waterbody is no longer impaired.”

The situation for the Cieneguilla Creek (Eagle Nest Lake to headwaters) dissolved aluminum TMDL is consistent with the scenario for withdrawal outlined in the USEPA guidance described above as well as the provision for withdrawal provided in the New Mexico WQMP/CPP.

III. Public Participation

Table XIV-1 in the New Mexico WQMP requires a 30-day public comment period and a public meeting in the affected watershed for all TMDL processes. The 30-day public comment period opens on January 4, 2017 and closes on February 3, 2017. A public meeting will be held on January 17, 2017 from 4:30—6:30 p.m at the Village of Angel Fire’s Council Chambers, [3388 Mountain View Blvd.], Angel Fire, NM. SWQB received approval of the the Cieneguilla Creek (Eagle Nest Lake to headwaters) TMDL withdrawal proposal from the WQCC on April 11, 2017 and EPA Region 6 on May 12, 2017.

IV. Conclusions

The dissolved aluminum impairment was removed as a cause of non-support for aquatic life from the WQCC- and USEPA-approved 2008-2010 §303(d)/§305(b) Integrated List. There is no longer dissolved aluminum WQC for aquatic life applicable to this AU. As the 2004 TMDL was developed using a WQC that no longer exists, SWQB proposes that the WQCC approve the withdrawal of the 2004 Cieneguilla Creek (Eagle Nest Lake to headwaters) dissolved aluminum TMDL.

References:

New Mexico Administrative Code (NMAC). 2013. State of New Mexico Standards for Interstate and Intrastate Surface Waters. New Mexico Water Quality Control Commission. As amended through June 5, 2013. (20.6.4 NMAC) Available at: <https://www.env.nm.gov/swqb/Standards/>

New Mexico Environment Department/Surface Water Quality Bureau (NMED/SWQB).

2011. Statewide Water Quality Management Plan and Continuing Planning Process (WQMP/CPP). <https://www.env.nm.gov/swqb/Planning/WQMP-CPP/>
- . 2008. 2008-2010 State of New Mexico Clean Water Act §303(d)/§305(b) Integrated List. May. Available at: <https://www.env.nm.gov/swqb/303d-305b/>
- United States Environmental Protection Agency (USEPA). 2012. Consideration for Revising and Withdrawing TMDLs. Available at: <https://www.epa.gov/tmdl/draft-considerations-revising-and-withdrawing-tmdls>

APPENDIX A

PUBLIC COMMENTS

No public comments received

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